



# **Well Drillers**

## **2014**

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# Agenda

- Overview of Sales Tax
- Contractor Information
- Commercial & Residential Wells
- Contracts with Exempt Entities
- Contracts for Agricultural Wells
- Contracts for Wells Used in the Manufacturing Process
- Recognize What is Taxable & Document What is Exempt

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# Overview of Sales Tax

## Sales tax is...

- ... a transactional tax,
- ... based on the transaction,
- ... rather than the item sold.

Where the item or service is delivered determines the local sales tax rate and to whom the tax is due.

## A sale is...

- ... the transfer of title or possession,
- ... of an item or taxable service,
- ... for consideration.

# **A lease or rental of tangible personal property...**

...can be a sale,

...if there is transfer of possession.

Sales tax is due on each  
lease or rental payment.



# The Bottom Line for Sales Tax

Sellers must collect sales tax  
or  
document why they did not.

# Taxable Services

- Animal specialty services
- Building cleaning
- Computer software training
- Detective services
- Installing/applying tangible personal property
- Motor vehicle towing, washing/waxing, painting
- Pest control services
- Recreational vehicle (RV) park services
- Security services
- Repair labor

For a more complete list of taxable and nontaxable services, see the [Nebraska and Local Sales Tax Information Guide](#) on our website.

## All service providers...

...are the consumers of the taxable items and services used to provide the service; and  
...must pay tax on those items or services  
(even if the charge for the service is also taxable).

Example 1: The carwash does not sell soap and wax, but a “car wash.”

Example 2: A window cleaner is not selling window cleaning solution, but “clean windows.”

# **Well drillers are consumers...**

...who must pay sales tax on supply items.

## Examples of supply items

- Antifreeze
- Drilling Fluids
- Drilling Mud
- EZ Mud
- Grease
- Hydraulic Oil
- Motor Oil
- Quick Gel

# **Well drillers are consumers...**

...who must pay sales tax on tools and equipment.

## Examples of tools and equipment

- Drilling Equipment
- Drilling Rigs
- Vehicles
- Wrenches and Gauges

# **Well drillers are consumers...**

...even when they are  
contractors!

Building materials do not include tools, equipment, or services that do not become annexed to real estate.

Contractors must pay sales or use tax on purchases of these items!

# Contractor Information

# Contractor Database

- Every construction contractor making payment to a subcontractor must withhold 5%;
- Unless the subcontractor is registered in the Department of Labor's Contractor Registration Database.



- A single definition of “contractor” is used for purposes of the Contractor Registration Act and construction contractor withholding. (This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the [Contractor Database](#).

# Contractor Terms

- Construction Contractor
- Contractor Labor
- Building Materials
- Fixtures
- Contractor Options

For more information on Contractors, see [Reg-1-017](#).

# Construction Contractor (Contractor)

- Makes repairs or improvements to real property or items annexed to real property.
- Arranges for the annexation.

Examples of construction projects

- Residential wells
- Agricultural wells
- Commercial wells

# Contractor Labor

- Annexing building materials to real estate.
- Repair of a structure.
- Repair of building materials that are or will be annexed to real estate.

Charges for contractor labor are  
sales tax exempt.

Example - Annexing well pump

# Building Materials

- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate.

## Examples

- Casing
- Concrete
- Electrical panel
- Gravel
- Sand

## Do Not Include -

- Equipment
- Supplies
- Tools
- Other items not annexed

# Fixtures

- Equipment that is annexed to a building or structure so that it can properly function.
- Fixtures remain identifiable as a separate item.

## Examples

- Air valves
- Column tube shafts
- Couplers
- Faucet fittings
- Heads
- Oil assemblies
- Pressure gauges
- Pumps
- Swing check valves

# Three Types of Transactions

- Retail sales (TPP & taxable services)
  - Taxable at rate in effect where delivery occurs
- Contractor labor (Not taxable)
- Nontaxable services

# Contractor Options


- Contractor Options apply only to Construction Contractor Projects (CCP).
- Option chosen determines:
  - How sales and use tax is paid on building materials and fixtures; or
  - If sales tax is collected from the customer on building materials and fixtures.
- If an Option is not chosen, the default is Option 1. Audits will be conducted based on option chosen.



# Option 1 Contractor

- Transactions with the supplier
  - Purchases building materials and fixtures for resale.
  - Must give Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the customer
  - Does not collect sales tax on separately stated labor charges.
  - Must collect sales tax on separately stated charges for building materials and fixtures.
  - If charges for building materials and labor are not separately stated, the entire amount is taxable.

# Form 13, Section C, Block 1

 <b>Nebraska Resale or Exempt Sale Certificate</b> for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		<b>FORM 13</b>	
<b>NAME AND MAILING ADDRESS OF PURCHASER</b>		<b>NAME AND MAILING ADDRESS OF SELLER</b>	
Name		Name	
Street or Other Mailing Address		Street or Other Mailing Address	
City	State	City	State
Zip Code		Zip Code	
<b>Check Type of Certificate</b> <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket    If blanket is checked, this certificate is valid until revoked in writing by the purchaser.			
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: <b>Check One</b> <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)			
<b>SECTION A — Nebraska Resale Certificate</b>			
Description of Item or Service Purchased I hereby certify that the purchase, lease, or rental of _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold. I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of _____ Description of Product Sold, Leased, or Rented			
and hold Nebraska Sales Tax Permit Number		01- _____ If None, State Reason	
or Foreign State Sales Tax Number		State _____	
<b>SECTION B — Nebraska Exempt Sale Certificate</b>			
The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.) If exemption category 2 or 5 is claimed, enter the following information: Description of Item(s) Purchased _____ Intended Use of Item(s) Purchased _____ If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number.    05- _____ If exemption category 6 is claimed, seller must enter the following information and sign this form below: Description of Item(s) Sold _____ Date of Seller's Original Purchase _____ Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO    Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO			
<b>SECTION C — For Contractors Only</b>			
<b>1. Purchases of Building Materials or Fixtures:</b> <input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: _____ 01- _____			
<b>2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (exempt entity):</b> <input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.			
<small>Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the            regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135,            shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for            each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket            certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct            and complete.</small>			
<b>sign here</b> _____ Authorized Signature		_____ Title	_____ Date


## Option 2 Contractor

- Transactions with the supplier
  - Pays sales or use tax on purchases of building materials and fixtures.
- Transactions with the customer
  - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

## Option 3 Contractor

- Transactions with the supplier
  - Purchases building materials and fixtures tax-free.
  - Must give Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the customer
  - Must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
  - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

# Form 13, Section C, Block 1

 <b>Nebraska Resale or Exempt Sale Certificate</b> for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		<b>FORM 13</b>	
<b>NAME AND MAILING ADDRESS OF PURCHASER</b>		<b>NAME AND MAILING ADDRESS OF SELLER</b>	
Name _____		Name _____	
Street or Other Mailing Address _____		Street or Other Mailing Address _____	
City _____	State _____ Zip Code _____	City _____	State _____ Zip Code _____
<b>Check Type of Certificate</b> <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket    If blanket is checked, this certificate is valid until revoked in writing by the purchaser.			
<b>I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:</b>			
<b>Check One</b> <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)			
<b>SECTION A—Nebraska Resale Certificate</b>			
Description of Item or Service Purchased _____ I hereby certify that the purchase, lease, or rental of _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold. I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of _____ Description of Product Sold, Leased, or Rented _____			
and hold Nebraska Sales Tax Permit Number 01- _____		If None, State Reason _____	
or Foreign State Sales Tax Number _____		State _____	
<b>SECTION B—Nebraska Exempt Sale Certificate</b>			
The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.) If exemption category 2 or 5 is claimed, enter the following information:			
Description of Item(s) Purchased _____		Intended Use of Item(s) Purchased _____	
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05- _____			
If exemption category 6 is claimed, seller must enter the following information and sign this form below:			
Description of Item(s) Sold _____	Date of Seller's Original Purchase _____	Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>SECTION C—For Contractors Only</b>			
<b>1. Purchases of Building Materials or Fixtures:</b> <input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01- _____			
<b>2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (exempt entity):</b> <input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.			
Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.			
<b>sign here</b> _____ Authorized Signature		_____ Title	_____ Date

# Erosion Control Issues

## Retail Sales

- Rock and gravel
  - Considered a retail sale when it is just dumped at a location. Collect tax from the customer.
- Silt fencing and erosion control checks and the labor to install them when not part of a construction project
  - Sales tax should be collected from the customer on materials and installation labor.

Silt fencing and erosion control checks remain tangible personal property after installation.

## Contractor Labor

- The labor to install silt fencing and erosion control checks in addition to contractor labor
  - The labor is contractor labor. The contractor is the consumer of the materials for these items and must pay sales tax on them.

## Contractor Labor

- Spreading rock and gravel
- Spreading hay or straw over seed
- Drilling seed and hydro-seeding
- Installing erosion control netting
- The labor to apply erosion control blankets, mulch, and seed

Tax the building materials for these items according to contractor option.



## Nontaxable services

- Demolition and earth moving
  - When performed on a stand alone basis, this service is nontaxable.

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# **Building Materials & Fixtures for a Job Site Outside Nebraska**

# Option 1

## No Nebraska sales or use tax liability

- When withdrawing building materials and fixtures from tax-free inventory.
- When building materials and fixtures are annexed to real estate in the other state.

## Option 2

### No Nebraska sales tax credit or refund

- When withdrawing building materials and fixtures from tax-paid inventory.
- Credit for sales tax paid may be available from the other state.
- They may have the supplier deliver materials to the job site out-of-state and pay no Nebraska sales or use tax.

## Option 3

### Remits use tax to Nebraska

- When withdrawing building materials and fixtures from tax-free inventory.
- At the rate in effect at the time and place inventory is withdrawn.
- They may have the supplier deliver materials to the job site out-of- state and pay no Nebraska use tax.

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# **Construction Contracts for Commercial & Residential Wells**

## Option 1 Well Drillers

- Do not collect sales tax on separately-stated charges for construction labor.
- Must collect sales tax on separately-stated charges for building materials and fixtures.

## Option 2 or 3 Well Drillers

- Do not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

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# Construction Contracts with Exempt Entities



# How do I know if the project owner is an exempt entity?

- [Governmental Entity information guide](#) ([Reg-1-093](#))
- [Nonprofit information guide](#) ([Reg-1-090](#))
- Nonprofit Healthcare Facilities ([Reg-1-090](#))
- [Contact the Department](#)

Reminder: Not all nonprofits or governmental units are exempt from sales tax!

# **Governmental units that sell electricity, gas, heat, or water**

The following governmental units can sell these items and still claim a sales tax exemption:

- Nebraska irrigation districts;
- Nebraska reclamation districts; and
- Any Nebraska public power irrigation district.

Any other departments or portions of governmental units that sell electricity, gas, heat or water are not sales tax exempt.

## **Governmental units that sell electricity, gas, heat, or water**

- A well driller can invoice the departments of governmental units that are not sales tax exempt the same way it would invoice for a commercial well.
- For all other exempt governmental units and exempt entities (for example, airport authorities), the well driller should obtain a [Form 17](#) prior to the start of the project.

## Form 17

# **Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax**

- Supports why tax was not paid or collected on building materials and fixtures for construction projects with exempt entities.

## Prime Contractors

- Receive [Form 17](#) from project owner PRIOR TO the start of the project.
- Complete the lower portion.
- Provide copies to any subcontractors on the project so they can buy building materials and fixtures sales tax exempt.



Purchasing Agent Appointment  
and Delegation of Authority for Sales and Use Tax

FORM  
17

PURCHASING AGENT APPOINTMENT	
Name and Address of Prime Contractor	Name and Address of Governmental Unit or Exempt Organization
Name	Name
Street or Other Mailing Address	Street or Other Mailing Address
City State Zip Code	City State Zip Code
Name and Location of Project	Appointment Information
Name	Effective Date (see Instructions)
Street or Other Mailing Address	Expiration Date
City State Zip Code	Nebraska Exemption Number (Exempt Organizations Only)

Identify Project

The undersigned governmental unit or exempt organization appoints the above-named contractor and the contractor's delegated subcontractors as its agent to purchase and pay for building materials that will be annexed to real estate by them into the tax exempt construction project stated above.

**sign here** Authorized Signature of Governmental Unit or Exempt Organization Title Date

DELEGATION OF PRIME CONTRACTOR'S AUTHORITY	
Name and Address of Subcontractor	Delegation Information
Name	Effective Date
Street or Other Mailing Address	Expiration Date
City State Zip Code	Portion of Project

The undersigned prime contractor hereby delegates authority to act as the purchasing agent of the named governmental unit or exempt organization to the above-named subcontractor.

**sign here** Signature of Prime Contractor or Authorized Representative Title Date

# Option 1 Prime Contractors

- Receive [Form 17](#) and [Form 13](#) from project owner prior to the start of the project.
- Complete the Delegation of Prime Contractor's Authority portion of the Form 17.
- Complete a Form 13 and provide it with a copy of the Form 17 to Option 1 subcontractors.
- Provide copies of the Form 17 to any Option 2 or 3 subcontractors on the project so they can buy building materials and fixtures sales tax exempt.

## Option 2 and 3 Prime Contractors

- Complete a [Form 13](#) and provide it with a copy of the [Form 17](#) to Option 1 subcontractors.
- Provide copies of the Form 17 to any Option 2 or 3 subcontractors on the project so they can buy building materials and fixtures sales tax exempt.



- Only building materials and fixtures that become annexed to real estate may be purchased sales tax exempt.
- Contractors must pay sales or use tax on all purchases or rentals of equipment, tools, and taxable services used to complete the project.

## **Routine, On-call Repair for Exempt Entities**

- Contractors who are on-call for exempt entities may obtain a [Form 17](#) for routine, on-call repair.
  - There must be a written agreement.
  - Form 17 is good for up to one year.
  - Option 1 contractors must also obtain a [Form 13](#).


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# Construction Contracts for Agricultural Wells

## Option 1 Well Driller

- Does not collect sales tax on separately-stated charges for construction labor.
- If a [Form 13](#), Section B, Category 2 is received from the farmer/producer, then the separately-stated charges for the well fixtures are sales tax exempt.
- The charges for building materials that are not fixtures (for example, casings) are taxable.

# Form 13, Section B

 <b>Nebraska Resale or Exempt Sale Certificate</b> for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		<b>FORM 13</b>	
<b>NAME AND MAILING ADDRESS OF PURCHASER</b>		<b>NAME AND MAILING ADDRESS OF SELLER</b>	
Name _____		Name _____	
Street or Other Mailing Address _____		Street or Other Mailing Address _____	
City _____	State _____ Zip Code _____	City _____	State _____ Zip Code _____
<b>Check Type of Certificate</b> <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket    If blanket is checked, this certificate is valid until revoked in writing by the purchaser.			
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: <b>Check One</b> <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)			
<b>SECTION A—Nebraska Resale Certificate</b>			
Description of Item or Service Purchased _____ I hereby certify that the purchase, lease, or rental of _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold. I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of _____ Description of Product Sold, Leased, or Rented _____			
and hold Nebraska Sales Tax Permit Number 01- _____		If None, State Reason _____	
or Foreign State Sales Tax Number _____		State _____	
<b>SECTION B—Nebraska Exempt Sale Certificate</b>			
The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.) If exemption category 2 or 5 is claimed, enter the following information:			
Description of Item(s) Purchased _____		Intended Use of Item(s) Purchased _____	
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05- _____			
If exemption category 6 is claimed, seller must enter the following information and sign this form below:			
Description of Item(s) Sold _____	Date of Seller's Original Purchase _____	Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>SECTION C—For Contractors Only</b>			
<b>1. Purchases of Building Materials or Fixtures:</b>			
<input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01- _____			
<b>2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (exempt entity):</b> <input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.			
<small>Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the            regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135,            shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for            each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket            certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct            and complete.</small>			
<b>sign here</b> _____ Authorized Signature		_____	_____
		Title	Date

## Option 2 Well Driller

- When drilling an agricultural well, the contractor may not purchase any building materials or fixtures sales tax exempt.

## Option 3 Well Driller

- When drilling an agricultural well, the contractor still owes use tax on the cost of all building materials and fixtures.

Option 2 and 3 well drillers do not collect sales tax on any portion of the invoice.  
They cannot accept a Form 13.

- Effective October 1, 2014, all repair and replacement parts are exempt if both criteria are met
  - The property repaired is agricultural machinery and equipment
  - The equipment is used in commercial agriculture
- Farmers or ranchers must issue a Form 13, Section B, Category 2 to exempt these sales.
- Repair labor is sales tax exempt

# Form 7AG-1



## Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases

**RESET**

- Read instructions on reverse side
- Type or print clearly

**FORM  
7AG-1**

PLEASE DO NOT WRITE IN THIS SPACE

Federal Employer I.D. or Social Security Number

### NAME AND MAILING ADDRESS OF PURCHASER/LESSEE

Name

Street or Other Mailing Address

City

State

Zip Code

County where property will be located for property taxation (a copy of this claim will be forwarded to the appropriate county assessor and all property listed herein will be subject to personal property taxation)

If leased, will this property be leased or rented for less than one year?

☐ YES ☐ NO

### QUALIFYING AGRICULTURAL MACHINERY AND EQUIPMENT

Description of Property (List Each Item Separately)	Date Purchased/ Leased Mo. Day Yr.	Net Purchase/ Lease Price \$	Local Jurisdiction Imposing Tax	Local Sales and Use Tax Paid \$	Nebraska Sales and Use Tax Paid \$
1					
2					
3					
4					
5					

6 Total local sales and use tax paid.....

6

\$

7 Total Nebraska sales and use tax paid.....

7

\$

8 Total refund claimed for Nebraska and local sales and use tax paid (total of lines 6 and 7). No refund will be made if the total amount claimed is less than \$2.00.....

8

\$

I declare, under penalties of law, that I have examined this claim, and to the best of my knowledge and belief, it is correct and complete.  
I also declare that payment of this claim has not been previously made by the state, nor have I claimed or received a refund from the retailer.

**sign  
here**

Signature of Purchaser, Lessee, or Agent

Printed Name

( )

Telephone Number

Date

For more detailed information, refer to the [Form 7AG-1 instructions](#).



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# **Construction Contracts for Wells Used in the Manufacturing Process**

# What is “Manufacturing?”

Manufacturing is...

performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different:

- Form;
- Property;
- Quality;
- State;
- Thing.

# Manufacturing does not include:

- Document shredding
- Mining
- Bottling
- Sorting
- Retail operations
- Generation or transmission of electricity
- Production or transmission of information or data
- Preparation of food for immediate consumption
- Purification or transportation of water
- Commercial agricultural operations or support of those operations

# Manufacturing Machinery & Equipment (MME)

MME is machinery and equipment:

- Used in manufacturing;  
and
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased sales tax exempt.

# **Manufacturing Machinery and Equipment (MME) is Exempt:**

- If more of the manufacturer's total annual revenue is from sales of tangible personal property it manufactures than from any other business activity, and
- The machinery and equipment is used more than 50% of the time in manufacturing.


For more information, see [Reg-1-107](#) – MME Exemption.

- When work on MME involves charges for contractor labor:
  - Contractor labor is sales tax exempt; and
  - Contractor option chosen determines taxability of purchases of MME, or any repair parts.

# Option 1

- Obtains [Form 13](#), Section B, Category 5 from the manufacturer.
- May purchase building materials & fixtures sales tax exempt.
- Does not collect sales tax on MME (for example, well fixtures) provided a completed Form 13 is received from the manufacturer.
- Will collect tax on building materials (for example, casings) that are not fixtures.

# Form 13, Section B

 <b>Nebraska Resale or Exempt Sale Certificate</b> for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		<b>FORM 13</b>	
<b>NAME AND MAILING ADDRESS OF PURCHASER</b>		<b>NAME AND MAILING ADDRESS OF SELLER</b>	
Name _____		Name _____	
Street or Other Mailing Address _____		Street or Other Mailing Address _____	
City _____	State _____ Zip Code _____	City _____	State _____ Zip Code _____
<b>Check Type of Certificate</b> <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket    If blanket is checked, this certificate is valid until revoked in writing by the purchaser.			
<b>I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:</b>			
<b>Check One</b> <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)			
<b>SECTION A — Nebraska Resale Certificate</b>			
I hereby certify that the purchase, lease, or rental of _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold.		Description of Item or Service Purchased _____	
I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of _____ Description of Product Sold, Leased, or Rented			
and hold Nebraska Sales Tax Permit Number    01- _____ or Foreign State Sales Tax Number _____ State _____		If None, State Reason _____	
<b>SECTION B — Nebraska Exempt Sale Certificate</b>			
The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.) If exemption category 2 or 5 is claimed, enter the following information:			
Description of Item(s) Purchased _____		Intended Use of Item(s) Purchased _____	
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number.    05- _____			
If exemption category 6 is claimed, seller must enter the following information and sign this form below:			
Description of Item(s) Sold _____	Date of Seller's Original Purchase _____	Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>SECTION C — For Contractors Only</b>			
<b>1. Purchases of Building Materials or Fixtures:</b> <input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is:    01- _____			
<b>2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (exempt entity):</b> <input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.			
Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.			
<b>sign here</b>		_____ Authorized Signature	_____ Title
		_____ Date	



## Options 2 & 3

- Both Options owe sales or use tax on MME (for example, well fixtures) and on parts purchased and annexed to the manufacturer's real estate.
- Cannot accept a Form 13, Section B, Category 5 from the manufacturer.
- Manufacturer can purchase MME sales tax exempt directly from a 3<sup>rd</sup> party vendor.

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# **Recognize What is Taxable & Document What is Exempt**

# Option 1

## Taxable

- City water department well
- Manufacturer - other well
- Residential well

Option applies

Option applies

Option applies

## Sales Tax Exempt

- Ag equipment for well (new only)
- Manufacturer - MME well
- U.S. Government well

Form 13, Section B

Form 13, Section B

Form 17 and Form 13

Equipment rental is taxable to the contractor.

## Options 2 & 3

### Taxable

- Ag equipment for well
- City water department well
- Manufacturer - MME well
- Manufacturer - Other well
- Residential well

Option applies

Option applies

Option applies

Option applies

Option applies

### Sales Tax Exempt

- U.S. Government well

Form 17

Equipment rental is taxable to the contractor.

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# Overview of Use Tax

# Use Tax

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax -
  - Sales tax is collected and remitted by the seller.
  - Use tax is paid directly to the Department by the purchaser/consumer.

# Use Tax and Sales Tax Have These Things in Common –

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
  - Where delivery occurs or
  - Where first usage in Nebraska takes place.

# When Use Tax is Due

- Use tax is often due when purchases are made from an out-of-state seller
  - Internet, catalog, mail order
  - Magazines and journals by subscription
- Use tax is due when the business withdraws tax-free inventory for business or personal use (including donations)
  - Auto mechanic
  - Hair salon

Note: Be sure to maintain good records!



# Contractor Reminder

- Building materials do not include tools, equipment, or services that do not become annexed to real estate.
- Contractors must pay sales or use tax on purchases of these items!

# Graffiti Cleanup of Real Property

Taxable? It depends.

If the graffiti is on a building, the cleanup is taxable

- Residential building
- Commercial building

If the graffiti is on a structure annexed to real property (not a building), the cleanup is not taxable

- Fence
- Water tower

Note: Building means any free-standing structure enclosed within a roof and exterior walls ([Reg-1-017.02](#)).



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**Thank you!**